

R E S O L U T I O N

WHEREAS, the Prince George=s County Planning Board has reviewed Certification of Nonconforming Use Application No. CNU-11548-2001-U requesting certification of a nonconforming cemetery in the O-S Zone in accordance with Subtitle 27 of the Prince George=s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on November 8, 2001, the Prince George's County Planning Board finds:

- A. Location and Field Inspection: The subject property comprises 51.92" acres located on the south side of Suitland Road, 1,100" feet west of its intersection with Arnold Road. It is developed as the Washington National Cemetery. It is hilly in topography, descending gradually from east to west. The cemetery has a combination of lawn crypts and mausoleums, as well as associated offices and maintenance buildings.
- B. History: The applicant states that the cemetery was first established in 1934, prior to the area=s incorporation into the Regional District on May 12, 1942. The site was then placed in the A Residential-A@ Zone, which permitted a cemetery Asubject to the approval of the Commission. @ In 1949, the site was placed in the R-R Zone, which required a special exception for this use. In 1986, the *Suitland-District Heights and Vicinity Sectional Map Amendment* placed the site in the O-S Zone, which also requires a special exception for a cemetery.

Through the years, several special exceptions have been approved for sections of the cemetery, including a pending application for additional crypts and mausoleums on 9.9" acres (SE-4379). During the processing of SE-4379, it was discovered that the cemetery site in its entirety had never been approved either through the certification of a nonconforming use or a special exception.

- C. Master Plan Recommendation: The 1985 *Master Plan for Suitland-District Heights and Vicinity* recommends public/quasi-public use for the site in recognition of its long use as a cemeteryy
- D. Request: The applicant seeks certification of the cemetery as a nonconforming use.
- E. Surrounding Uses: The site is surrounded by the following uses:

<u>North</u> :	Across Suitland Road is Cedar Hill Cemetery in the O-S Zone.
----------------	--

<u>Northeast</u> :	Garden apartments in the R-18 Zone
--------------------	------------------------------------

<u>East and Southeast</u> :	The Suitland Federal Center in the C-O Zone
-----------------------------	---

<u>South and Southwest</u> :	The Lincoln Memorial Park Cemetery in the
------------------------------	---

O-S Zone and Suitland Parkway.

F. Certification Requirements: Certification of a nonconforming use requires that certain findings be made. First, the use must either predate zoning or have been established in accordance with all regulations in effect at the time it began. Second, there must be no break in operation for more than 180 days since the use became nonconforming. Section 27-244 sets forth the specific requirements:

1. **In general, a nonconforming use may only continue if a use and occupancy permit identifying the use as nonconforming is issued after the Planning Board (or its authorized representative) certifies that the use is really nonconforming and not an illegal use.**
2. **Application for Use and Occupancy Permit:**
 - a. **The applicant shall file for a use and occupancy permit.**
 - b. **Along with the application and accompanying plans, the applicant shall provide the following:**
 - (1) **Documentary evidence, such as tax records, business records, public utility installation or payment records and sworn affidavits showing the commencing date and continuous existence of the nonconforming use.**
 - (2) **Evidence that the nonconforming use has not ceased to operate for more than 180 consecutive calendar days between the time the use became nonconforming and the date when the application is submitted or that conditions of nonoperation for more than 180 consecutive calendar days were beyond the applicant's and/or owner's control, were for the purpose of correcting Code violations or were due to the seasonal nature of the use.**
 - (3) **Specific data showing:**
 - (i) **The exact nature, size and location of the building, structure and use.**
 - (ii) **A legal description of the property.**
 - (iii) **The precise location and limits of the use on the property and within any building it occupies.**
 - (4) **A copy of a valid use and occupancy permit issued for the use prior**

to the date upon which it became a nonconforming use, if the applicant possesses one.

- G. Documentary Evidence: The applicant must show that the cemetery existed prior to May 12, 1942, when the site was first incorporated into the Regional District. The applicant has submitted sections of the ARecord of Interments@ for the cemetery showing the earliest interment in 1934, as well as complete records from 1942 up to April 2001. At no time does the record show a break of more than 180 days during the time period from December 27, 1941, to April 2, 2001.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George=s County Code, the Prince George=s County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED CNU-11548-2001-U.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with the District Council for Prince George=s County, Maryland within thirty (30) days of the final notice of the Planning Board=s decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Brown, seconded by Commissioner Lowe, with Commissioners Brown, Lowe, Scott and Eley voting in favor of the motion, and with Chairman Hewlett absent at its regular meeting held on Thursday, November 8, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of December 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:TL:rmk